

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14951, of the Coalition for the Homeless, Inc., as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sections 305, 305.7 and 332.1(a) to allow an emergency shelter and to approve more than one community based residential facility in a square or within 500 feet, a variance from the allowable percentage of lot occupancy requirements (Sub-section 403.2), a variance from the minimum rear yard requirements (Sub-section 404.1), a variance from the width of an open court requirements (Sub-section 406.1), and a variance to allow an existing nonconforming structure [Paragraphs 2001.3(a), (b) and (c)] for a proposed addition of a secondary stair to an emergency shelter for fifteen homeless men in an R-4 District at premises 87 New York Avenue, N.W., (Square 618, Lot 62).

HEARING DATES: November 30 and December 14, 1988  
DECISION DATE: January 4, 1989

FINDINGS OF FACT:

1. The applicant was originally scheduled for the public hearing of November 30, 1988. Subsequent to the issuance of notice of the November 30, 1988 public hearing, the application was amended to request additional zoning relief. The application was therefore withdrawn from the public hearing agenda of November 30, 1988 and was rescheduled for the public hearing of December 14, 1988 to permit adequate re-advertisement and public notice of the additional zoning relief requested.
2. The property is located at the northeast corner of the intersection of New York Avenue and First Street and is known as premises 87 New York Avenue, N.W. It is zoned R-4.
3. The site contains 1,090 square feet of lot area and is triangular in shape. The site is improved with a three-story, semi-detached brick structure with basement constructed in 1900. The structure is currently unoccupied and boarded. The structure contains approximately 3,092 square feet of floor area. The structure was previously occupied as a rooming house.
4. By Order No. 14544, dated August 5, 1987, the Board granted special exception relief to the applicant to establish an emergency shelter for fifteen residents subject to nine conditions. Due to changes in the Building Code subsequent

to the Board's action, unanticipated renovations to the building were required. The applicant was unable to obtain sufficient funds to make the required renovations. The applicant did not obtain a certificate of occupancy or a building permit within six months of the date of the order and the Board's approval lapsed pursuant to the provisions of 11 DCMR 3104.4

5. The applicant is seeking to re-establish the special exception relief previously granted by the Board. The applicant is further seeking variance relief to permit the construction of a covered stairway at the rear of the building.

6. The surrounding area is generally characterized by older residential areas containing brick row houses, several of which are vacant and boarded, and interspersed commercial uses. Directly across New York Avenue to the south is the Julius Hobson Plaza apartment building. Across 1st Street to the east is the New York Avenue Recreation Center. Dunbar High School is located one block northwest of the site at 1st and N Streets. The site is within the Hanover Place Study Area.

7. The applicant, the Coalition for the Homeless, Inc., was incorporated on August 24, 1981 as a District of Columbia non-profit corporation. The Coalition was organized to eradicate the problem of homelessness by the implementation of comprehensive programs designed to address the root causes of the problem, instead of its symptoms. The Coalition's objective is to establish an effective means by which homeless individuals can realize independent living status and become economically contributing members of the community. The Coalition is committed to accomplishing this goal through the development of "transitional homes".

8. The proposed transitional home is not a typical "emergency shelter" which offers homeless persons nothing more than the bare-bones essentials of human existence -- a bed, a shower and a limited source of food, such as soup and a sandwich. An emergency shelter also is open to all homeless persons, any of which may be admitted without formal screening procedure. In addition, an emergency shelter typically remains open only from between 5:00 P.M. and 7:00 P.M. until approximately 7:00 A.M. the next morning.

9. In contrast to the typical emergency shelter, the Coalition's transitional homes are used by a fixed number of residents who have been referred to the Coalition and who have undergone an extensive screening process. There is a highly structured program to which each resident must adhere. Furthermore, each resident must satisfy the following criteria:

(a) The resident must be working or able to work, or if on a fixed income, such as disability or social security, the resident must be able to participate in a day care program off the site;

(b) The resident must agree to sign a Resident Contract at the end of the initial two-week probationary period. The contract formalizes the basis upon which the resident is allowed to live in the transitional home;

(c) The resident must abide by curfews of 11:30 P.M. Sunday through Thursday, and 1:30 A.M. Friday and Saturday;

(d) The resident must assist in the care and maintenance of the transitional home;

(e) The resident must deliver 30 percent of his net income to the Coalition for rent, and 45 percent for placement in a mandatory savings account, which is released to the resident at the end of his stay in the program and which serves as a nest egg for his independent living. The resident may also contribute funds to be used in supplementary food and other in-house expenses;

(f) The resident must participate in the financial planning, rehabilitation, and job training programs provided by the Coalition at the location of the transitional facility and elsewhere; and

(g) The resident agrees to abstain from the use of alcohol and drugs, and is subject to random drug testing.

Violation of any of the house rules and regulations or the terms of the Resident Contract may result in the expulsion of the resident from the facility.

10. Residents for this transitional home will be male veterans of the United States Armed Forces, all of whom will be referred by the Veteran's Administration Hospital. The home will not be open to nor will it accept homeless men directly off the streets. Residents will reside at the home for periods of time ranging from six to eighteen months.

11. The staff of the transitional home will be comprised of four trained and experienced individuals who will serve on rotating shifts, 24-hours per day. The staff will monitor the exterior of the facility and patrol the block in which the site is located at regular intervals, particularly in the evening between 6:00 P.M. and 11:30 P.M. Additionally, the Coalition's Director of Residential Services will visit the home daily. The project budget also includes provision for a psychiatric nurse who, among other duties, is responsible for dispensing prescribed drugs to the residents if required.

12. Funding for the renovation of the proposed facility consists of grants totalling \$105,000 from the U.S. Department of Housing and Urban Development, the Potomac Electric Power Co., and the Federal Emergency Management Authority. In addition, the applicant has received a line of credit of \$100,000 from its lender to cover any additional renovation costs. Funds to operate the program include a HUD grant under the McKinley Act of \$147,000 per annum for five years. The D.C. Department of Human Services has pledged to match the federal award for 1989. The funds provided by these grants are exclusively for the implementation of the proposed facility at the subject site.

13. The applicant operates several similar facilities in the District of Columbia. None of the residents of the other facilities own automobiles and the applicant does not anticipate vehicle ownership by potential residents of the proposed facility. There is adequate public transportation convenient to the subject site. The property is located approximately 1.5 miles from the Veterans Administration Hospital and Regional Benefits Office and is within walking distance to several employers who have previously hired Coalition clients.

14. No on-site parking can be provided because the existing structure occupies 97.7 percent of the site. Staff members who may drive to work will be on rotating shifts. On-street parking is available to the south on First Street and along N Street. Parking is also permitted on both sides of New York Avenue with a 3:00 P.M. to 6:00 P.M. weekday restriction.

15. There is one community based residential facility within 500 feet of the site at 63 N Street, N.W., approximately one block from the subject site. The facility at 63 N Street, N.W. can accommodate up to six youths. At the time of the public hearing, four youths were in residence at the facility. The type of program offered at 63 N Street is not similar to the proposed transitional home.

16. The applicant proposes to completely renovate the existing structure. The proposed renovations include the repointing of existing brickwork, replacement of the roof and windows, a new kitchen, the addition of a window to the office area to provide visual access to the entrance, the reconfiguration of bedroom space to provide a fire-rated corridor, and the construction of a second means of egress consisting of a covered stairway at the rear of the building as required by the Building Code. The proposed renovations will comply with all the applicable requirements of the Municipal Codes and Regulations.

17. The existing building was constructed in approximately 1900 and presently exceeds the permitted lot occupancy of 60 percent by approximately 37.7 percent. The proposed addition of a covered stairway at the rear of the structure will increase the lot area by approximately 85.31 square feet or approximately 1.3 percent. Portions of the existing building currently project into public space in the front or on the west side of the structure. There is no other unoccupied portion of the site in which to locate the required stairway.

18. The existing nonconforming rear yard is approximately eight feet in depth. The proposed addition will result in a rear yard of approximately two feet. The proposed stairway addition will also result in the creation of a nonconforming court.

19. The triangular property abuts public space to the north, west and south. The property to the east is improved with a row dwelling. The applicant is unable to obtain additional land area to meet the Zoning Regulations.

20. The Office of Planning (OP), by memorandum dated December 7, 1988, recommended that the application be approved. The OP was of the opinion that the proposal would not create a negative impact on the surrounding neighborhood and, based on the quality of services provided by the applicant in other location in the city, the applicant will contribute positively to the neighborhood and provide a desperately needed service to the city as a whole.

21. By memorandum to the Director of OP, dated November 17, 1988, the Department of Human Services recommended approval of the application based on the considerable need for such facilities in the city and the applicants' satisfactory performance under its existing contracts.

22. By memorandum to the Director of OP, dated October 31, 1988, the Acting Fire Chief offered no objection to the granting of the application subject to the provision of the following life and fire safety features:

- a. Installation of direct wired smoke detectors both within any sleeping area as well as in any corridor outside sleeping areas.
- b. Installation of an automatic sprinkler system as per requirement of NFPA 13D, 1984 Edition.
- c. A second means of egress from upper floors.
- d. Installation of a fire alarm system.
- e. Appropriate portable fire extinguishers.

- f. Submission of a fire evacuation plan.

23. By memorandum to the Director of OP, dated November 10, 1988, the Metropolitan Police Department (MPD) recommended favorable consideration of the application. The MPD was of the opinion that the proposed facility may impact on the level of service in the area and that, upon its completion and occupancy, the MPD would monitor the facility for criminal activity.

24. Advisory Neighborhood Commission (ANC) 5C, by letter dated December 7, 1988 and a representative at the public hearing, opposed the granting of the application based on the following:

- a. The concentration of agencies serving the homeless and other community residential facilities in the area.
- b. The proximity of the proposed facility to the existing youth facility at 63 N Street, N.W.
- c. The impact of unmonitored residents of school age youth in the area and the proximity of the site to the New York Avenue playground.
- d. An additional community residential facility would not contribute to the revitalization of the area.
- e. The current condition of the community would not serve as a good environment for individuals recovering from substance and alcohol abuse or other mental health problems.
- f. The facility would impact on existing parking and utilization of public space.

25. The ANC 5C recommended that, should the Board grant the application, the following conditions be imposed:

- a. The shelter shall maintain at all times the appropriate licenses and permits required by the Department of Consumer and Regulatory Affairs.
- b. The Coalition Board of Directors will hold regular meetings (the place, date and time of which shall be included in the monthly newsletter) open to the public. One meeting annually will be held in the vicinity of the shelter located at 87 New York Avenue, N.W.
- c. Residents of the shelter are to be residents of the District of Columbia, the residents shall be registered to vote, and programs on community

living and civic affairs shall be a part of the educational and counseling programs provided.

- d. Residents are required to maintain full-time gainful employment; those residents not so employed will be required to perform community service at community based shelters, agencies, and services.
- e. Staff at the facility will consist of full-time counselors (four) and one part-time cook.
- f. A private contractor will pick-up trash at least twice a week.
- g. The number of residents at the shelter shall not exceed fifteen, exclusive of resident supervisor. Program participants who comply with program guidelines may remain in the facility indefinitely.

26. By correspondence and testimony at the public hearing, the Bates Area Civic Association, the Julius Hobson Plaza Condominium Board and several nearby residents opposed the granting of the application. In addition to the concerns raised by the ANC, the opposition was based on the following:

- a. The adverse impact on security in the area due to loitering and the proximity of the facility to the bus stop.
- b. The impact such facility may have on the property values in the area.
- c. The ability of the applicant to provide the scope of services offered with a staff of four persons.

27. In addressing the issues and concerns of the ANC and the opposition, the Board finds that due to the nature and function of the other community residential facility within 500 feet, no adverse impacts will result from the proposed facility. The number of community residential facilities in the area and the condition of the neighborhood have not changed substantially since the Board's prior approval of the case in BZA Order No. 14544, dated August 5, 1987. The applicants screening and evaluation policies have merit and its house rules are enforceable. The record does not support a finding that the residents of the proposed facility will contribute significantly to existing criminal activity in the area. There is adequate curbside parking and public transportation in the area to ensure that the proposed use will not adversely impact existing parking and traffic in the area. The renovation and occupancy of a vacant, deteriorated structure will not adversely effect the revitalization or property values in the area. The proposed facility will meet all applicable code and licensing requirements.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and an area variance. As to the special exception, the applicant must demonstrate substantial compliance with the provisions of Sections 305 and 3108.1 of the Zoning Regulations to obtain the relief requested. The Board concludes that the applicant has met the burden of proof. Adequate curbside parking and public transportation exists to ensure that the operation of the proposed use will not adversely affect parking, traffic or transportation conditions in the neighborhood. The subject property will meet all applicable code and licensing requirements of the District of Columbia. The proposed use, as hereinafter conditioned, will not have an adverse impact on the neighborhood because of traffic, noise or operations. The cumulative effect of the proposed use of the subject property and existing CBRFs in Square 618, within 500 feet of 87 New York Avenue, N.W., and elsewhere in the neighborhood will not have an adverse impact on the neighborhood because of traffic, noise or operations.

The Board concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps.

As to the area variance, the Board concludes that the lot is affected by an extraordinary and exceptional condition. The lot was developed prior to the adoption of the current Zoning Regulations. The existing structure occupies in excess of 97 percent of the site. The lot is irregularly shaped and does not currently meet the rear yard requirements. The Board is of the opinion that the applicant would suffer a practical difficulty by the strict application of the Zoning Regulations in that the proposed addition is necessary to meet applicable building and safety codes. The Board further concludes that the requested relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Operation of the facility shall be limited to the applicant.
2. Approval shall be for a period of THREE YEARS from the date of final order.

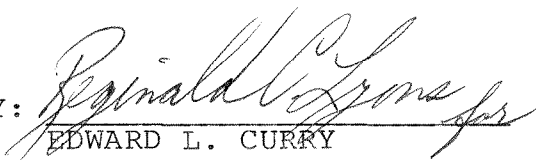


3. Residents of the facilities shall be veterans.
4. The number of residents shall not exceed fifteen.
5. Program policies and house rules as described in Exhibit No. 38 of the record shall be enforced strictly.
6. The premises shall be maintained at regular intervals in keeping with, but not below the standard of the surrounding neighborhood. The subject site and adjacent public space shall be policed on a daily basis.
7. The facility shall provide for security, exterior monitoring and patrolling.
8. Not less than one Coalition staff shall be present on the premises at all times.
9. The Coalition shall implement and maintain a community liaison policy as more fully described in the record to encourage interaction between the Coalition and its neighbors. The duties of the community liaison representative include (a) attendance at regularly scheduled meetings of Advisory Neighborhood Commission (ANC) 5C and those of neighborhood citizen associations; (b) preparation and distribution of a monthly newsletter update to ANC Commissioners, applicable neighborhood citizen's association officers and residents within a radius of 200 feet of the subject property; (c) being "on-call" on a 24-hour basis to supply information as may be necessary to individual members of the community; and (d) working with SOME to help alleviate any adverse cumulative impacts on the neighborhood. The liaison shall be charged with providing information reasonably deemed necessary to protect the public health, safety and neighborhood citizens association officer who requests such information. In addition, regular meetings of the Coalition's Board of Directors (the place, date and time of which shall be included in the monthly newsletter/updates described above) shall be open to the public. The Coalition shall respond in writing to any complaint received from ANC 5C or other nearby citizens' organizations within 30 days of receipt.

VOTE: 5-0 (Charles R. Norris, John G. Parsons, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: FEB 23 1989

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14951order/LJP46

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14951

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated FEB 23 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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EDWARD L. CURRY  
Executive Director

DATE: FEB 23 1989